



**DEBRA BOWEN | SECRETARY OF STATE**  
**STATE OF CALIFORNIA | ELECTIONS**


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July 28, 2011

County Clerk/Registrar of Voters (CC/ROV) Memorandum #11055

TO: All County Clerks/Registrars of Voters and Proponent

FROM:

  
Katherine Montgomery  
Initiative Program Manager

RE: Initiative: 1492, Related to Mortgages

Pursuant to Elections Code section 9004 (c), we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed initiative measure entitled:

**HOME MORTGAGE MODIFICATION.  
INITIATIVE CONSTITUTIONAL AMENDMENT.**

The proponent of the above-named measure is:

David A. Benson  
P.O. Box 292452  
Sacramento, CA 95829

(916) 247-4743

#1492

**HOME MORTGAGE MODIFICATION.  
INITIATIVE CONSTITUTIONAL AMENDMENT.**

**CIRCULATING AND FILING SCHEDULE**

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1. Minimum number of signatures required: ..... 807,615  
California Constitution, Article II, Section 8(b)
2. Official Summary Date: ..... Wednesday, 07/27/11
3. Petitions Sections:
  - a. First day Proponent can circulate Sections for  
signatures (Elections Code § 336) ..... Wednesday, 07/27/11
  - b. Last day Proponent can circulate and file with the county.  
All sections are to be filed at the same time within each  
county. (Elections Codes §§ 9014, 9030(a)) ..... Tuesday, 12/27/11
  - c. Last day for county to determine total number of  
signatures affixed to petitions and to transmit total  
to the Secretary of State (Elections Code § 9030(b)) ..... Monday, 01/09/12  
  
(If the Proponent files the petition with the county on a date prior to  
12/27/11, the county has eight working days from the filing of the petition  
to determine the total number of signatures affixed to the petition and to  
transmit the total to the Secretary of State) (Elections Code § 9030(b).)
  - d. Secretary of State determines whether the total number  
of signatures filed with all county clerks/registrars of  
voters meets the minimum number of required signatures  
and notifies the counties ..... Wednesday, 01/18/12\*
  - e. Last day for county to determine total number of qualified  
voters who signed the petition, and to transmit certificate  
with a blank copy of the petition to the Secretary of State  
(Elections Code §§ 9030(d)(e)) ..... Friday, 03/02/12

\* Date varies based on the date of county receipt.

**INITIATIVE #1492**

**Circulating and Filing Schedule continued:**

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(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 01/18/12, the last day is no later than the thirtieth working day after the county's receipt of notification). (Elections Code §§ 9030(d)(e).)

- f. If the signature count is more than 888,377 or less than 767,235 then the Secretary of State certifies the petition as qualified or failed, and notifies the counties. If the signature count is between 767,235 and 888,377 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures (EC §9030(f)(g); 9031(a)) ..... Monday, 03/12/12\*

- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State. (Elections Code §§ 9031(b)(c)). ..... Monday, 04/23/12

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 03/12/12, the last day is no later than the thirtieth working day after the county's receipt of notification.) (Elections Code §§ 9031(b)(c).)

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient (Elections Code §§ 9031(d), 9033)..... Friday, 04/27/12\*

\*Date varies based on the date of county receipt.



## IMPORTANT POINTS

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- California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fundraising or requests for support. Any such misuses constitutes a crime under California law. Elections Code § 18650; *Bilofsky v. Deukmejian* (1981) 124 Cal.App.3d 825, 177 Cal.Rptr. 621; 63 Ops.Cal.Atty.Gen. 37 (1980).
- Please refer to Elections Code §§ 100, 101, 104, 9008, 9009, 9013, 9021, and 9022 for appropriate format and type consideration in printing, typing and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- Your attention is directed to the campaign disclosure requirements of the **Political Reform Act of 1974**, Government Code section 81000 et seq.
- When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- When filing the petition with the county elections official, please provide a blank petition for elections official use.

KAMALA D. HARRIS  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



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July 27, 2011

The Honorable Debra Bowen  
Secretary of State  
Office of the Secretary of State  
1500 11th Street, 6th Floor  
Sacramento, CA 95814

Attention: Ms. Katherine Montgomery  
Elections Analyst

Dear Secretary Bowen:

Pursuant to Elections Code section 9004, you are hereby notified that on this day we sent our title and summary for the following proposed initiative to the proponent:

- 11-0014, "Foreclosure Modification Act"

A copy of that title and summary and text of the proposed initiative is enclosed. Please contact me if you have questions.

Sincerely,

DAWN L. MCFARLAND  
Acting Initiative Coordinator

For KAMALA D. HARRIS  
Attorney General

DLM:

**FILED**  
In the office of the Secretary of State  
of the State of California

JUL 27 2011

VIA  
EMAIL  
3:45pm

Debra Bowen, Secretary of State  
By Deputy Secretary of State

July 27, 2011  
Initiative 11-0014

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**HOME MORTGAGE MODIFICATION. INITIATIVE CONSTITUTIONAL**

**AMENDMENT.** Makes home ownership fundamental right. Prohibits lenders from foreclosing on California citizen's personal home. Requires lenders to assist California borrowers not paying on home loans due to financial hardship or illness. Requires lenders to reduce home loan principal to reflect drop in local property value if more than 10 percent, and to reschedule payments, reduce interest rates, and/or refinance without new credit review. Requires lenders to refinance home loans at minimum cost within 45 days of request if loan has been maintained for three years. Provides back property tax assistance to homeowners. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments:

**The fiscal impacts of some provisions of this measure are uncertain because of potential conflicts with provisions of the U.S. and State Constitutions and federal laws and regulations governing federally chartered lenders. Potential losses to local governments up to a few billion dollars annually in revenues from property taxes and other types of fees and assessments. Potential state costs up to the low billions of dollars annually to replace the loss of property tax revenues now used to meet the Proposition 98 education funding requirement. (11-0014)**

To the Honorable Kamala D. Harris  
Attorney General of the State of California

California Homeowners and  
I, the undersigned David A. Benson, a citizen of the State of California  
and located at PO Box 292452  
Sacramento, CA 95829

916-247-4743

Temporary Numbers  
Fax 916-685-0385

e-mail: [protect.our.home.now@gmail.com](mailto:protect.our.home.now@gmail.com)

Do hereby request a Title and Summary for the attached proposed  
initiative constitutional amendment.

Signed 

11-0014

**RECEIVED**

JUN 07 2011

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE



This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure expressly amends the California Constitution by amending a article and by adding sections thereto of the Article 1 dealing with Declaration Of Rights.

PROPOSED AMENDMENT

**FORECLOSURE MODIFCATION ACT**

**SECTION 1. Title**

This act shall be known as the "Foreclosure Modification Act".

**SECTION 2. Findings and Declarations**

The People of the State of California hereby find and declare that:

- (a) Real estate lending institutions have failed to provide a simple method of loan modification and foreclosure prevention.
- (b) That lending institutions, loan servicers, mortgagees, trustees and beneficiaries of home loans are not taking into account the devalue that has occurred in property values and adjusted loans accordingly in loan modifications.
- (c) That borrowers would continue to make payments on notes held by these lending institutions, loan servicers, mortgagees, trustees and beneficiaries, if given the opportunity.
- (d) That foreclosure has become a method of increasing a lending institution, loan servicer, mortgagee, trustee and beneficiary's bottom line and profits by turning borrowers out of their homes.
- (e) That currently it is a time consuming and sometimes costly process that is required by lending institutions, loan servicers, mortgagees, trustees and beneficiaries for refinancing of a home loan in order that a borrower may take advantage of lower interest rates.



## **Foreclosure Modification Act cont'd**

### **SECTION 3. Purposes and Intent**

The People of the State of California do hereby enact this measure to:

- (a) Assist all citizens of this great State of California in the purchase and ownership of a home or property and that associated therewith.
- (b) Make available principal reduction as well as but not limited to interest rate reduction a method of aiding borrowers in retaining their home or property.
- (c) Prevent the lost of one's personal home property by foreclosure or other means due to hardship or illness or other calamity.
- (e) Make refinance for a lower interest rate and payment simple, easy and available to all homeowners.

### **SECTION 4. Article 1 of the California Constitution is amended, with the addition of SEC. 31 to read:**

It is a fundamental right for every Californian to purchase and own a home and real property. As such no township, city, county, municipality, corporate entity, the Legislature or agents thereof shall infringe on this given right of the State of California to its citizens. In that this right is granted to the citizens of California, the State and its agents (townships, cities, counties, legislature and departments thereof) shall endeavor to assist and encourage the ownership of a personal home or property and such as related to same.

No citizen of the State of California shall lose or have that deemed as their personal home or property taken by foreclosure or any instrument thereof or similar to. In the event of non payment in the time defined by standard loan contracts, due to financial hardship or illness by the home or property borrower, then the lending institution, loan servicers, mortgagees, trustees and beneficiaries shall make every effort to assist California borrowers and in the event of a reduction of local property values of more then 10%, a reduction of principal to reflect the new value shall be used, as well as to reschedule payments and or reduce interest rates and or refinance without credit review of the loan in order to bring said loan current.

**SEC. 31 cont'd.**

In addition any such loan issued for and secured by a home or property by any lending institutions, loan servicers, mortgagees, trustees and beneficiaries doing business in the State of California, shall be able to be refinanced without credit review or penalty at minimum cost, within 45 days of being requested, by the original loan borrower or home owner, provided said owner or borrower has maintained said loan for a period of no less than 3 years. All borrowers shall have the right and the ability to meet in person if desired, with an agent of the lending institutions, loan servicers, mortgagees, trustees and beneficiaries in order to facilitate any required review with said agent who will be authorized to make any changes in loan terms at that time.

This shall apply also to property taxes, fees and levies collected on a citizen's home by any township, city, county, municipality, political subdivision or agents thereof. These groups shall make every effort possible to assist the home owner in the payment of current or back property taxes or assessments, even to the extent of allowing payments on a weekly or monthly schedule at no additional cost or interest thereof, in order that the citizen may retain their personal home or property. This does not prohibit those laws dealing with mechanics liens and lien laws, but is in addition to same.